

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.115 of 2016
IN
Civil Writ Jurisdiction Case No. 9454 of 2011

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Dr. Brahmdeo Sah son of Late Jankai Sah resident of Mohalla - Vijay Nagar, Road No. 2 (Hanuman Nagar), P.S. - Patrakar Nagar, Patna - 26.

.... Appellant/s

Versus

1. The State of Bihar through the Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Magadh University, through the Vice-Chancellor, Bodh Gaya.
3. The Registrar, Magadh University, Bodh Gaya.
4. The Finance Officer, Magadh University, Bodh Gaya.

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Samir Kumar Sinha, Advocate Mr. Dhananjay Kumar, Advocate
For the University	:	Mr. Bhashkar Shankar, Advocate
For the State	:	Mr. Naresh Prasad, AC to SC-2

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CORAM: HONOURABLE THE CHIEF JUSTICE
And
HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 15-05-2017

Seeking exception to an order dated 22.09.2015 passed by the writ Court in Civil Writ Jurisdiction Case No. 9454 of 2011, this appeal has been filed under Clause-X of the Letters Patent.

The only question involved in this appeal is as to whether the learned Writ Court was right in disallowing the



statutory interest payable to the petitioner under the provident fund scheme and only directing for payment of interest at the rate payable by nationalized bank i.e. 5 per cent as is paid for a deposit kept under savings bank account.

The facts in nutshell go to show that the appellant retired from the service of the University in question. Even though he retired in the year 2001 when there were disputes with regard to calculating his actual length of service including the G.P.F. The matter came to this Court at the instance of the appellant in Civil Writ Jurisdiction Case No. 6076 of 2002 and the said Writ Petition was decided by a Bench of this Court on 29.11.2005. In the aforesaid case, it has come on record that after retirement of the petitioner in January, 2001, his provident fund was settled only in 2004 and no statutory interest was paid for the period when the provident fund amount was in deposit with the employer till its payment in the year 2004.

Learned counsel for the University who appeared in C.W.J.C. No. 6076 of 2002 made certain statements and based on the same, the Court made the following observations and disposed of the said writ petition.

“Mr. Jugal Kishore fairly admitted that the petitioner was entitled to statutory interest on the un-deposited amount of provident fund and submitted that



the same would be calculated and paid to the petitioner within two months from today. But a pre-condition for this would be that the petitioner should first deposit Rs. 7,836/- being the amount of the employer's contribution for the period he worked in another affiliated college.

Counsel for the petitioner stated that the petitioner was quite willing and prepared to make the deposit.

As & when the petitioner deposits Rs. 7,836/-, the University must calculate the amount of interest receivable by him on the unpaid amount of provident fund and make the payment to him within two months from the date of the deposit made by the petitioner.

This writ petition is disposed of with the aforesaid observations and directions.”

(Emphasis supplied)

However, as under interest, only at the rate of 5 per cent was granted and statutory interest was not paid to the petitioner even after he deposited the amount of Rs. 7836/-. The matter came to this Court again and Civil Writ Jurisdiction Case No. 9454 of 2011 was filed. In the said case, the University filed a counter affidavit, wherein it was stated that rate of interest has been calculated for the years when the account was operative and therefore the interest at the rate of 5 per cent has been paid for the delay. Accepting the aforesaid contention, the Writ Court disposed of the matter without granting statutory interest to the petitioner and upheld the action of the University in only allowing 5 per cent



interest on the delayed payment.

Admittedly, during the period, the amount was lying in the provident fund account of the petitioner till payment in the year 2004, the rate of interest on such account, statutory in nature, varied from 8 percent to 11 per cent and from various periods, the petitioner has actually been paid interest at the rate of 5 per cent for certain period may be for the delay which was less than the statutory interest. It is well settled principle of law that the entire provident fund amount in the credit of an employee has to be settled by paying statutory interest till the actual payment made which will include for the delay if any in making payment of the dues. There cannot be payment of interest less than the statutory interest for any period till it is on the account under the scheme till actual payment to the employee.

That being the position, the learned Writ Court has committed error and accordingly, we allow the appeal, quash the order passed by the Writ Court and dispose of the C.W.J.C. No. 9454 of 2011 with a direction to the University to calculate the amount of interest payable to the petitioner as per the varying statutory interest for entire periods when the amount was lying in the provident fund account of the petitioner including the period for which there was delay in settlement of the claim. The entire



payment to the petitioner be settled within a period of three months from the date of receipt/production of a copy of this order.

With the aforesaid, the appeal stands allowed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Shageer/-

AFR/NAFR	NAFR
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